

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TONYA MICHELLE MALONE, as
Personal Representative of the Estate of
GERARD WATSON, Deceased,

Plaintiff,

vs.

CIV 15-1009 PJK/KBM

GARY EDEN, JACQUELINE R. FLETCHER,
and XYZ CORP.,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER came before the Court for a telephonic status conference set for today, Tuesday, February 5, 2019, at 10:00 a.m. Participants included Mark Caruso, Nathan Anderson, and Paul Barber for Plaintiff, Darci Carroll for Defendant Fletcher, and Lisa Chavez Ortega for Defendant CRST. Mark Klecan, counsel for Defendant Gary Eden, failed to call in as required by the Court's Order Setting a Status Conference (*Doc. 125*), nor could he be reached at his phone number or e-mail address of record. This is the third time that Mr. Klecan has failed to appear for a hearing before this Court in this case, having previously failed to appear for hearings on May 10, 2016, and May 2, 2017. *See Doc. 49, 79.*

The Court has discretionary authority under Federal Rule of Civil Procedure 16(f) to sanction a party for failing to comply with a court order. Fed. R. Civ. P. 16(f)(1)(C). "[T]here can be no doubt that subsection (f), added as part of the 1983 amendments to Rule 16, indicates the intent to give courts very broad discretion to use sanctions where necessary to insure . . . that [lawyers and parties] fulfill their high duty to insure the

expeditious and sound management of the preparation of cases for trial.” *Olcott v. Delaware Flood Co.*, 76 F.3d 1538, 1555 (10th Cir. 1984) (en banc)). Further the Court may assess sanctions under its inherent power where an attorney willfully disobeys a court order. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 45 (1991).

IT IS THEREFORE ORDERED, that Mark Klecan must show cause, in a written document to be filed with the Court no later than **Friday, February 9, 2019**, why he and his client should not be sanctioned for his failed to appear for the February 5, 2019 Status Conference.

IT IS FURTHER ORDERED that Defendant Gary Eden file a status report accessible by only the Court and the case participants, which indicates the status of his health and availability.


UNITED STATES MAGISTRATE JUDGE